



Senate

General Assembly

File No. 380

February Session, 2014

Substitute Senate Bill No. 303

Senate, April 7, 2014

The Committee on Commerce reported through SEN. LEBEAU of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT EXTENDING THE RESEARCH AND EXPERIMENTAL EXPENDITURE TAX CREDIT TO PASS-THROUGH ENTITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-217j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2014, and*
3 *applicable to income and taxable years commencing on or after January 1,*
4 *2014*):

5 (a) There shall be allowed as a credit against the tax imposed [on
6 any corporation] (1) under this chapter, with respect to income years of
7 [such] any corporation commencing on or after January 1, 1994, and
8 prior to January 1, 2014, and (2) under this chapter or chapter 229,
9 other than the liability imposed by section 12-707, with respect to
10 income or taxable years commencing on or after January 1, 2014, an
11 amount equal to twenty per cent of the amount spent by [such
12 corporation] a taxpayer directly on research and experimental
13 expenditures, as defined in Section 174 of the Internal Revenue Code of
14 1986, or any subsequent corresponding internal revenue code of the

15 United States, as from time to time amended, which are conducted in
16 this state and which exceeds the amount spent by such [corporation]
17 taxpayer during the preceding income or taxable year of such
18 [corporation] taxpayer for such expenditures.

19 (b) (1) With respect to any income year commencing on or after
20 January 1, 2000, a credit or any portion of a credit that is allowed under
21 this section but that is not used by a taxpayer because the amount of
22 the credit exceeds the tax due and owing by the taxpayer shall be
23 carried forward to each of the successive income years until such
24 credit, or applicable portion of [the] such credit, is fully taken. In no
25 case shall a credit, or any portion of a credit, that is not used by a
26 taxpayer be carried forward for a period of more than fifteen years.

27 (2) (A) With respect to any income year commencing on or after
28 January 1, 1997, and prior to January 1, 2000, a credit or any portion of
29 a credit that is allowed under this section but that is not used by a
30 biotechnology company because the amount of the credit exceeds the
31 tax due and owing by the taxpayer shall be carried forward to each of
32 the successive income years until such credit, or applicable portion of
33 [the] such credit, is fully taken. In no case shall a credit, or any portion
34 of a credit, that is not used by a biotechnology company be carried
35 forward for a period of more than fifteen years.

36 (B) For purposes of this subsection, "biotechnology company" means
37 a company engaged in the business of applying technologies, such as
38 recombinant DNA techniques, biochemistry, molecular and cellular
39 biology, genetics and genetic engineering, biological cell fusion
40 techniques, and new bioprocesses, using living organisms, or parts of
41 organisms, to produce or modify products, to improve plants or
42 animals, to develop microorganisms for specific uses, to identify
43 targets for small molecule pharmaceutical development, or to
44 transform biological systems into useful processes and products.

45 (c) If the taxpayer is an S corporation or an entity treated as a
46 partnership for federal income tax purposes, the shareholders or
47 partners of such taxpayer may claim the credit allowed under this

48 section. If the taxpayer is a single-member limited liability company
49 that is disregarded as an entity separate from its owner, the limited
50 liability company's owner may claim the credit allowed under this
51 section.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2014, and applicable to income and taxable years commencing on or after January 1, 2014</i>	12-217j
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Statement of Legislative Commissioners:

In subsection (a), "income years of such corporation" was changed to "income years of [such] any corporation", for clarity; and in subsection (c), "may claim the credit" was changed to "may claim the credit allowed under this section", in both instances, for clarity.

CE *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Revenue Serv., Dept.	GF - Potential Revenue Loss	19.1 million	19.1 million
Revenue Serv., Dept.	GF - Cost	3,000-5,000	None

Municipal Impact: None

Explanation

The bill extends the Research and Experimental Expenditures tax credit (R&E) to pass-through business entities. This results in a potential revenue loss of approximately \$19.1 million annually beginning in FY 15 and a one-time cost to the Department of Revenue Services (DRS) of \$3,000-\$5,000 in FY 15 only.

The potential revenue loss is based on actual data from the current R&E program, and assumes credit usage by pass-through entities would be substantially similar to credit usage by corporations (C-corps) currently eligible to receive the credit. Due to the limited amount of data available on pass-through entities in the state, no adjustments are made to account for the difference in the number, industry, and ownership structure of pass-through entities versus C-corps. Any such differences would impact the revenue estimate.

The bill also results in a one-time cost of \$3,000 to \$5,000 to DRS to update personal income tax schedule CT-IT, as well as the online Taxpayer Service Center.

The Out Years

The annualized ongoing revenue impact identified above would continue into the future subject to inflation.

Sources: Department of Revenue Services Annual Reports

OLR Bill Analysis**sSB 303*****AN ACT EXTENDING THE RESEARCH AND EXPERIMENTAL EXPENDITURE TAX CREDIT TO PASS-THROUGH ENTITIES.*****SUMMARY:**

This bill extends the research and experimental tax credit to people who own or own shares in businesses not liable for corporation and other business taxes except the business entity tax. It allows them to claim a credit against their personal income taxes for the business' increased research and experimental expenditures. Like the comparable business tax credit, the bill's personal income tax credit equals 20% of the increased research and experimental expenditures over the prior year.

The taxpayers who qualify for this credit are those whose businesses are structured as S corporations, limited liability companies (LLC), limited liability partnerships, and single-member LLCs. The profits such businesses make are not taxed at the entity level but pass through to the owners and shareholders to be taxed as personal income. The bill does not specify how the owners and shareholders must apportion the income tax credit among themselves, presumably leaving it for them to decide.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2014, and applicable taxable year starting on or after January 1, 2014.

BACKGROUND***Related Bills***

sSB 75, favorably reported by the Commerce Committee, makes taxpayers who own, hold shares in, or are partners in a pass-through

entity eligible for personal income tax credits if it contributes or invests in a municipally approved community project or program under the Neighborhood Assistance Act Program.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 17 Nay 0 (03/18/2014)